

James H.M. Sprayregen, P.C.
Paul M. Basta
Ray C. Schrock
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

- and -

James J. Mazza, Jr.
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Chapter 11
THE GREAT ATLANTIC & PACIFIC TEA)	
COMPANY, INC., <i>et al.</i>)	Case No. 10-_____ (___)
)	
Debtors.)	Joint Administration Requested
)	

PAYMENT PROCEDURES

On [TO COME] (the “*Commencement Date*”), The Great Atlantic & Pacific Tea Company, Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, the “*Debtors*”),¹ each filed a voluntary petition for relief under title 11 of the United States Code (the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: The Great Atlantic & Pacific Tea Company, Inc. (0974); 2008 Broadway, Inc. (0986); AAL Realty Corporation (3152); Adbrett Corporation (5661); Amsterdam Trucking Corporation (1165); APW Supermarket Corporation (7132); APW Supermarkets, Inc. (9509); Bergen Street Pathmark, Inc. (1604); Best Cellars DC Inc. (2895); Best Cellars Inc. (9550); Best Cellars Licensing Corp. (2896); Best Cellars Massachusetts, Inc. (8624); Best Cellars VA Inc. (1720); Bev, Ltd. (9046); Borman's Inc. (9761); Bridge Stuart, Inc. (8652); Clay-Park Realty Co., Inc. (0902); Compass Foods, Inc. (0653); East Brunswick Stuart, LLC (9149); Farmer Jack's of Ohio, Inc. (5542); Food Basics, Inc.(1210); Gramatan Foodtown Corp. (5549); Grape Finds At DuPont, Inc. (9455); Grape Finds Licensing Corp. (7091); Greenlawn Land Development Corp. (7062); Hopelawn Property I, Inc. (6590); Kohl's Food Stores, Inc. (2508); Kwik Save Inc. (8636); Lancaster Pike Stuart, LLC (9158); LBRO Realty, Inc. (1125); Lo-Lo Discount Stores, Inc. (8662); Mac Dade Boulevard Stuart, LLC (9155); McLean Avenue Plaza Corp. (5227); Milik Service Company, LLC (0668); Montvale

“**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Court**”). On the Commencement Date, the Debtors filed the *Debtors’ Motion for Entry of Interim and Final Orders Authorizing Debtors to Pay Certain Prepetition Claims of Critical Vendors and Section 503(b)(9) Claims, Approving Related Procedures, and Granting Related Relief* [Docket No. ___] (the “**Motion**”).²

On [TO COME], 2010, the Court entered an order [Docket No. ___] (the “**Order**”) authorizing the Debtors, in their reasonable business judgment, to pay all or part of certain amounts due and owing to certain Critical Vendors and Section 503(b)(9) Claimants.³

To ensure the continued postpetition delivery of goods and services on favorable terms, including credit terms, and facilitate orderly negotiations relating thereto, the Bankruptcy Court approved the procedures set forth herein (these “**Payment Procedures**”) for the payment of prepetition claims of certain Critical Vendors and Section 503(b)(9) Claimants the Debtors determine, in their sole discretion based on their sound business judgment, are essential to their ongoing business operations and who agree to, among other things, provide postpetition goods and/or services to the Debtors on Customary Trade Terms (as defined herein).

1. Customary Trade Terms. The Debtors will condition the payment of Critical Vendor Claims and Section 503(b)(9) Claims on the agreement of individual Critical Vendors and Section 503(b)(9) Claimants to supply goods and/or services to the Debtors in accordance with the trade terms at least as favorable as those practices and programs (including credit limits, pricing, cash discounts, timing of payments, allowances, rebates, coupon reconciliation, product mix, availability, and other programs) in place in the 120 days prior to the Commencement Date (collectively, the “**Customary Trade Terms**”) as provided herein.

2. Trade Agreement. The Debtors are authorized, but not directed, to enter into trade agreements with Critical Vendors and Section 503(b)(9) Claimants substantially in the form attached hereto as **Exhibit 1** (each, a “**Trade Agreement**”), which agreements shall constitute a legally binding contractual arrangement among the parties; *provided that* the Debtors may agree to implement such modifications to the form of Trade Agreement the Debtors deem necessary or advisable in the reasonable exercise of their business judgment to obtain Customary Trade Terms from the applicable Critical Vendor or Section 503(b)(9) Claimant. Subject to the Order, the Debtors are authorized to pay Critical Vendor Claims and Section 503(b)(9) Claims in

Holdings, Inc. (6664); North Jersey Properties, Inc. VI (6586); Onpoint, Inc. (6589); Pathmark Stores, Inc. (9612); Plainbridge, LLC (5965); SEG Stores, Inc. (4940); Shopwell, Inc. (3304); Shopwell, Inc. (1281); Spring Lane Produce Corp. (5080); Super Fresh/Sav-A-Center, Inc. (0228); Super Fresh Food Markets, Inc. (2491); Super Market Service Corp. (5014); Super Plus Food Warehouse, Inc. (9532); Supermarkets Oil Company, Inc. (4367); The Food Emporium, Inc. (3242); The Old Wine Emporium of Westport, Inc. (0724); The South Dakota Great Atlantic & Pacific Tea Company, Inc (4647); Tradewell Foods of Conn., Inc. (5748); Upper Darby Stuart, LLC (9153); and Waldbaum, Inc. (8599). The location of the Debtors’ corporate headquarters is Two Paragon Drive, Montvale, New Jersey 07645.

² Capitalized terms used but not defined herein shall have the meaning set forth in the Motion.

³ In the event of any inconsistency between these Payment Procedures and the Order, the Order shall control in all respects.

the event that no Trade Agreement has been executed if the Debtors determine, in their business judgment, that a formal Trade Agreement is unnecessary to ensure such Critical Vendor's continued performance on Customary Trade Terms.

3. Termination. All Trade Agreements will terminate upon entry of an order converting the Debtors' chapter 11 cases to cases under chapter 7 of the Bankruptcy Code. Further, if a Critical Vendor breaches its respective Trade Agreement, the Debtors may declare, in their discretion and without further order of the Bankruptcy Court or action by any person or entity, that the respective Trade Agreement is terminated and that payments received by the breaching Critical Vendor or Section 503(b)(9) Claimant on account of such claim will be deemed to have been in payment of then outstanding postpetition obligations owed. Upon such declaration, the breaching Critical Vendor or Section 503(b)(9) Claimant shall immediately repay the Debtors any payments made to it on account of its Critical Vendor Claim to the extent such payment exceeds postpetition amounts owed, if any, to the Critical Vendor or Section 503(b)(9) Claimant outstanding at that time, without the right of any setoffs, claims, provision for payment of reclamation or trust fund claims or otherwise.

4. Reinstatement. To the extent a Trade Agreement is terminated on account of breach of the terms or conditions thereof by a Critical Vendor or Section 503(b)(9) Claimant, such terminated Trade Agreement may nevertheless be reinstated as the result of one or more of the following: (a) after notice and a hearing (following a motion filed by the respective Critical Vendor or Section 503(b)(9) Claimant), the Bankruptcy Court reverses the Debtors' decision to terminate the Trade Agreement for good cause shown that the Debtors' determination was materially incorrect; (b) the Critical Vendor or Section 503(b)(9) Claimant fully cures the underlying default of the Trade Agreement within five (5) business days from the date of receipt of notice of termination of the Trade Agreement; or (c) the Debtors, in their sole discretion, reaches a commercially acceptable agreement with the breaching party.

5. Reservation of Rights. Nothing contained herein, in the Order or as a result of any payment made pursuant thereto, is intended to or should be construed as an admission of the validity, priority or extent of any claim or lien against the Debtors, a waiver of the Debtors' rights to dispute any claim or lien or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve the right to contest any demand for payment made with respect to the subject matter of these Payment Procedures pursuant to the Bankruptcy Code, any order of the Court, or applicable non-bankruptcy law. Any payment made pursuant to these Payment Procedures is not intended to and should not be construed as an admission of the validity of any claim or a waiver of the Debtors' right to dispute such claim subsequently.

6. Effect of Acceptance. Any party who accepts payment from the Debtors pursuant to the relief granted in the Order or these Payment Procedures (regardless of whether or not a Trade Agreement has been executed) shall be deemed to have agreed to the terms and provisions of the Order and these Payment Procedures and shall be deemed to have waived, to the extent so paid, (a) any and all prepetition claims, of whatever type, kind or priority, against the Debtors, their properties and estates, their directors, officers and members and any funds and other property held in trust by the Debtors that do not constitute "property of the estate" under section 541 of the Bankruptcy Code and (b) the right to demand a lump-sum payment for amounts

outstanding but not yet payable upon consummation of the Debtors' plan of reorganization.

New York, New York

Dated: _____, 2010

James H.M. Sprayregen, P.C.
Ray C. Schrock
Paul M. Basta
KIRKLAND & ELLIS LLP
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New York, New York 10022
Telephone: (212) 446-4800
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EXHIBIT 1

[FORM OF TRADE AGREEMENT]

TRADE AGREEMENT

The Debtors (as defined herein) and [SUPPLIER] (“*Supplier*”) hereby enter into the following trade agreement (this “*Trade Agreement*”) dated as of this [DATE].

Recitals

WHEREAS on [DATE] (the “*Commencement Date*”), The Great Atlantic & Pacific Tea Company, Inc. and certain affiliated entities (collectively, the “*Debtors*”) filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532 (the “*Bankruptcy Code*”), in the United States Bankruptcy Court for the Southern District of New York (the “*Court*”).

WHEREAS on [DATE], the Court entered the *Interim Order Authorizing Debtors to Pay Certain Prepetition Claims of Critical Vendors and Section 503(b)(9) Claims, Approving Related Procedures, and Granting Related Relief* (the “*Critical Trade Order*”) [Docket No. ____] authorizing the Debtors, under certain conditions, to pay the prepetition claims of certain suppliers, including Supplier, subject to the terms and conditions set forth therein.¹

WHEREAS pursuant to the Critical Trade Order, the Court approved certain payment procedures, substantially in the form attached to the *Debtors’ Motion for Entry of Interim and Final Orders Authorizing Debtors to Pay Certain Prepetition Claims of Critical Vendors, Approving Related Procedures, and Granting Related Relief* [Docket No ____] as **Exhibit C** (the “*Payment Procedures*”).

WHEREAS the Debtors and Supplier (collectively, the “*Parties*”) agree to the following terms as a condition of payment on account of certain prepetition claims Supplier may hold against the Debtors.

¹ Capitalized terms used but not defined herein shall have the meanings set forth in the Critical Trade Order.

Agreement

1. The Parties hereby agree that Supplier is a [**Critical Vendor/Section 503(b)(9) Claimant**] (as defined in the Critical Trade Order).

2. The balance of Supplier's aggregate [**Critical Vendor Claims/Section 503(b)(9) Claim**] is, \$[•] (the "**Agreed Vendor Claim**").

3. Following execution of this Trade Agreement, the Debtors will pay Supplier \$[•] on account of the Agreed Vendor Claim. The Payment will be applied to invoices previously received by the Debtors on account of the Agreed Vendor Claim as such invoices become due and payable.

4. Supplier shall supply goods [**and/or**] services to the Debtors based on the following "**Customary Trade Terms**:" the trade terms at least as favorable to the Debtors as those practices and programs (including credit limits, pricing, cash discounts, timing of payments, allowances, rebates, coupon reconciliation, product mix, availability, and other programs) in place in the 120 days prior to the Commencement Date.

5. Supplier agrees that it shall not require a lump-sum payment upon confirmation of a plan in the Debtors' bankruptcy cases on account of any outstanding administrative claims Supplier may assert. Supplier agrees that such claims will be paid in the ordinary course of business after confirmation of a plan pursuant to the Customary Trade Terms then in effect.

6. Supplier will not separately seek payment from the Debtors on account of any prepetition claim outside the terms of the Critical Trade Order, this Trade Agreement, or a confirmed plan in the Debtors' bankruptcy cases, except as each of the foregoing may be modified by further order of the Court.

7. The Parties further agree, acknowledge and represent that:

(a) the Parties have reviewed the terms and provisions of the Critical Trade

Order, the Payment Procedures, and this Trade Agreement and consent to be bound by such terms and that this Trade Agreement is expressly subject to the procedures approved pursuant to the Critical Trade Order;

- (b) any payments made on account of the Agreed Supplier Claims shall be subject to the terms and conditions of the Critical Trade Order and the Payment Procedures, including any orders of the Court granting the relief requested in the Critical Trade Order on a final basis, as applicable
- (c) if Supplier refuses to supply goods or services to the Debtors as provided herein or otherwise fail to perform any of their obligations hereunder, the Debtors may exercise all rights and remedies available under the Critical Trade Order, the Bankruptcy Code, or applicable law;
- (d) the Parties hereby submit to the exclusive jurisdiction of the Court to resolve any dispute with respect to or arising from this Trade Agreement.

8. Subject to the requirements of the Bankruptcy Code, further orders of the Court, or applicable law, Supplier agrees to hold in confidence and not disclose to any party: (a) any and all payments made by the Debtors pursuant to this Trade Agreement; (b) the terms of payment set forth herein; and (c) the Customary Trade Terms (collectively, the “Confidential Information”); *provided that* if any party seeks to compel Supplier’s disclosure of any or all of the Confidential Information, through judicial action or otherwise, or Supplier intends to disclose any or all of the Confidential Information, Supplier shall immediately provide the Debtors with prompt written notice so that the Debtors may seek an injunction, protective order or any other available remedy to prevent such disclosure; *provided further that* if such remedy is not obtained, Supplier shall furnish only such information as Supplier is legally required to provide.

9. This Trade Agreement sets forth the entire understanding of the Parties regarding the subject matter hereof and supersedes all prior oral or written agreements between them. This Trade Agreement may not be changed, modified, amended or supplemented, except in a writing signed by both Parties.

AGREED AND ACCEPTED AS OF THE DATE SET FORTH ABOVE:

[The Great Atlantic & Pacific Tea Company, Inc.] [SUPPLIER]
